



South Florida Water Management District

GOVERNING BOARD MEETING MINUTES

February 12, 2009

9:00 AM

District Headquarters - B-1 Auditorium

3301 Gun Club Road

West Palm Beach, FL 33406

Members Present:

Eric Buermann, Chair

Michael Collins

Charles Dauray

Shannon Estenoz

Melissa Meeker

Jerry Montgomery

Patrick Rooney

Members Absent:

Paul C. Huck Jr.

1. **Call to Order** - Eric Buermann, Chairman, Governing Board

Chair Buermann called the meeting to order at 9:05 am.

2. **Pledge of Allegiance** - Eric Buermann, Chairman, Governing Board

Mr. Rooney led the group in the Pledge of Allegiance.

3. **Florida Power & Light (FPL) Energy Rebate Presentation** - Jose Maldonado, Accounts Representative, Florida Power & Light

Aaron Basinger, Director, Finance and Administration Department, introduced Jose Maldonado, Florida Power & Light

Mr. Maldonado, Florida Power & Light, presented an energy rebate check to the SFWMD in the amount of \$19,000.

4. **Employee Recognitions** - Presented by Carol Wehle, Executive Director

Carol Wehle, Executive Director, recognized a Leadership Award, Employee of the Year award, 35-Year service award, 25-Year service award, two-February Employee of Month awards, and the 2008 Team of the Year award.

Ms. Wehle also recognized the Mobility Impairment Recreational Access February Team of the Month. Paul Kruger, representing the Chief of Staff of the United States Army, presented the District with the United States Army Certificate of Achievement for outstanding service to the soldiers of the United States. Ben Bear, United States Army veteran, thanked District staff for their hard work on this project.

5. Agenda Addendum - Annette Carter, Director, Office of Governing Board and Executive Services

Annette Carter, Director, Office of Governing Board and Executive Services, read into the record:

Section 120.525, Florida Statutes, allows the District to change the published agenda for good cause shown, as determined by the presiding officer. Based upon that authority, the Chairman has determined that good cause exists to make certain changes to the Agenda. These changes are being made in order to permit the Governing Board to efficiently accomplish necessary public business at this meeting and to reflect the items on the agenda that have been requested or suggested to be deleted, revised, supplemented or postponed. These changes have been listed in the Governing Board Addendum available at the entrance to this meeting room.

6. Abstentions by Board Members from items on the Agenda

Ms. Meeker abstained from from Consent Agenda Item 31 and Discussion Agenda Item 44.

Ms. Estenoz abstained from Discussion Agenda Item 38.

7. Project & Lands Committee Report - Patrick Rooney, Chair

Mr. Rooney provided a report of the Project and Lands Committee meeting activities which was held on February 11, 2009.

8. Audit & Finance Committee Report - Charles Dauray, Chair

Mr. Dauray provided a report of the Audit and Finance Committee activities which was held on February 11, 2009.

9. Water Resources Advisory Commission (WRAC) Report - Michael Collins, Chair

Mr. Collins provided the monthly report on the Water Resource Advisory Commission activities. Mr. Collins reported on the WRAC action items and asked the Board for formal approval of the nomination of the Honorable Julio A. Robaina, Mayor, City of Hialeah, for appointment to WRAC. This is a two year term effective 2/12/09 and will represent the local government sector.

Motion made by Michael Collins, seconded by Charles Dauray to Approve the following item(s): 9

Vote called. Voting yes: Michael Collins, Charles Dauray, Eric Buermann, Shannon Estenoz, Melissa Meeker, Jerry Montgomery, Patrick Rooney. Motion passed.

Consent Agenda

10. Public Comment on Consent Agenda

There was no public comment on the Consent Agenda.

11. Pull Items for Discussion from Consent Agenda

Ms. Estenoz pulled for discussion Consent Agenda Item 19.

12. Board Comment on Consent Agenda

Regulatory Matters

13. Water Use Permit Applications

Surface Water Management Permit Applications (includes Conservation Easements)

Environmental Resource Permit Applications (includes Conservation Easements)

Denials

Environmental Resource Permit Extensions

Consent Agreements

Conservation Easements

Seminole Tribe Work Plans

Enforcement Actions

Page 6 No 1 Enclaves at Eagles Nest (ERP): **Postponed** to March Board

Page 9 No 1 Dirr Partnership (WU): **Postponed** to March Board

Page 10 No 1 Lake Nona Golf Course and Estates (WU): **Postponed** to March Board

Page 12 No 3 Bursico (ERP): **Postponed** to March Board

Page 12 No 4 Depot Avenue and Historic Depot Square (ERP): **Postponed** to March Board

Page 14 No 1 ACR - Alan Wilson Grove (WU): **Postponed** to March Board

Page 17 No 1 Lofton Ranch (WU Denial): **Postponed** to March Board

14. Right of Way Occupancy New Permits

Right of Way Occupancy Permit Modifications

Right of Way Occupancy Permit Requests with Waiver of District Criteria

Water Resources

- 15. 2009-200** A Resolution of the Governing Board of the South Florida Water Management District to approve entering into an Interagency Agreement between the Southwest Florida Water Management District (SWFWMD) and the South Florida Water Management District (SFWMD) designating regulatory responsibilities to the SFWMD for improvements to Interstate 75 from the Lee County line to South of Tuckers grade (Exit 158) (Charlotte County); providing an effective date. (Ricardo Valera, ext 7733)
- 16. 2009-201** A Resolution of the Governing Board of the South Florida Water Management District to authorize a two year Cooperative Agreement with the University of Florida (IFAS) and authorize a Waiver of Competition as an exception to the general standards of competition, to evaluate the performance of an Above-Ground Impoundment (AGI) in reducing phosphorus in runoff, the amount of \$239,470, for which \$78,570 in dedicated funds (Everglades Trust Fund) is budgeted, and the remainder is subject to Governing Board approval of the FY10 and FY11 budgets (Contract Number 4600001715). (Pam Wade, ext 6901)
- 17. 2009-202** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a two year contract with the University of Massachusetts for Synoptic Measurement of Benthic Fluxes in the Caloosahatchee River and Estuary and the St. Lucie River and Estuary, and authorize a Waiver of Competition as an exception to the standards of competition, in the amount of \$260,000, for which \$140,000 in ad valorem funds is budgeted, and the remainder is subject to Governing Board approval of the FY10 budget; providing an effective date. (Contract Number 4600001719) (Teresa Coley, ext. 2636)

Everglades Restoration

- 18. 2009-203** A Resolution of the Governing Board of the South Florida Water Management District approving Staff recommendations for releases of District canal, mineral and road reservations, releases of Trustees of the Internal Improvement Trust Fund (T.I.I.T.F.) canal reservations, and issuance of non-use commitments; providing an effective date. (Vinola Rada, ext. 6836)
- 20. 2009-205** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into an agreement for sale and purchase of land interests containing 2.67 acres, more or less, in Martin County, for the Northern Everglades Initiative and Lake Okeechobee Fast Track Projects, in the amount of \$35,000, for which dedicated funds (State appropriation for Lake Okeechobee) are available; providing an effective date. (Tom Hanaway, ext. 6668)

- 21. 2009-206** A Resolution of the Governing Board of the South Florida Water Management District: (1) Amending Resolution No. 2008-1214 to provide ad valorem funds as an alternative funding source, and not as a substitution for the Florida Forever funding source originally approved for the acquisition; and (2) Authorizing a budget transfer of Okeechobee Basin (ad valorem funds) from Lake Okeechobee-Brady Ranch Project to Herbert Hoover Dike Rehabilitation Project; providing an effective date. (Bruce Hall, ext. 6541)
- 22. 2009-225** A Resolution of the Governing Board of the South Florida Water Management District authorizing an amendment to Contract Number C-13488 with Pero Family Farms, Inc. to extend the term for three (3) years, from May 31, 2009 to May 31, 2012, and adjust the rent; providing an effective date. (Contract Number C-13488-A03)(Andrea Stringer, ext. 6742)
- 23. 2009-207** A Resolution of the Governing Board of the South Florida Water Management District advising the Department of Environmental Protection of the Northern Everglades Specific Appropriation 1741 consumable budget needs for fiscal year 2009, utilizing funds from the Save Our Everglades Trust Fund; and authorizing the Executive Director or her designee to request reimbursement based on actual expenditures through September 30, 2009; providing an effective date. (Temperince Morgan, ext. 4204)
- 24. 2009-208** A Resolution of the Governing Board of the South Florida Water Management District requesting a release of funds from the Save Our Everglades Trust Fund by the Department of Environmental Protection for expenditures, as shown in Exhibit A, in support of the Northern Everglades Specific Appropriation 1741, in the amount of \$1,985,014.03; providing an effective date. (Temperince Morgan, ext. 4204)

Executive Office

- 25. 2009-209** A Resolution of the Governing Board of the South Florida Water Management District amending the Fiscal Year 2008-2009 Budget; providing an effective date. (Doug Bergstrom, x6214)
- 26. 2009-210** A Resolution of the Governing Board of the South Florida Water Management District authorizing the transfer of funds within the District FY2008-2009 budget as shown on the attachment hereto; providing an effective date. (Doug Bergstrom, x6214)
- 27. 2009-211** A Resolution of the Governing Board of the South Florida Water Management District to authorize District staff to file suit, pursue any appropriate damages and remedies, and take all appropriate action, including the authority to settle the matter, subject to the approval of the Executive Director, against Cypress Park Owners Association, Inc., and any other appropriate or necessary parties, in Palm Beach County Circuit Court or other appropriate forum, regarding the property located in Section 23, Township 45, Range 42, Boynton Beach, Palm Beach County, Florida. (Jennifer Bokankowitz, Ext. 2258)

28. **2009-212** A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a Consent Order with the State of Florida Department of Environmental Protection settling matters related to wetland clearing on property associated with Kissimmee River Restoration. (Beth Lewis, Ext. 6343)

Government and Public Affairs

29. **2009-213** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 1 year cost share agreement with St. Lucie County for Harbor Branch Preserve, in the total amount of \$574,600 in State Appropriations, of which \$385,581 in State Appropriations are budgeted, and the remainder \$189,019 in State Appropriations is subject to Governing Board approval of the February budget amendment; providing an effective date. (Contract number: 4600001709)(K.LaMartina x3603)
30. **2009-214** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into an 18 month, 50-50% cost share agreement with the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, U.S. Department of Commerce for St. Lucie Fish Health as Index of Environmental Quality, in the total amount of \$570,000, for which State Appropriations in the amount of \$285,000 are subject to Governing Board approval of the FY2009-2010 budget; providing an effective date. (Contract Number 4600001710)(Kathryn LaMartina, ext. 3603)

Corporate Resources

31. **2009-215** A Resolution of the Governing Board of the South Florida Water Management District authorizing the establishment of a pre-qualified pool of construction contractors to provide the district with construction services as needed for a five (5) year period, from March 1, 2009 to February 28, 2014; providing an effective date (RFQ 6000000213). (Frank Hayden, ext. 6043)

Ms. Meeker abstained from voting on Agenda Item 31.

32. **2009-216** A Resolution of the Governing Board of the South Florida Water Management District authorizing a three (3) year contract with two one-year renewal options with Superior Services Management, Inc. as a special procurement (other governmental entity) for janitorial services for the Districts field operations center and CERP offices in an amount not-to-exceed \$790,000 of which \$70,000 is budgeted for FY 2009 and the remainder is subject to Governing Board budget approval for fiscal years FY2010 through FY2014, providing an effective date. (Contract No: 460000xxxx). (Jon Gleason, ext 6380).

33. **Board Vote on Consent Agenda**

Ms. Meeker abstained from voting on Consent Agenda Item 31.

Motion made by Michael Collins, seconded by Charles Dauray to Approve the following item(s): 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32

Vote called. Voting yes: Michael Collins, Charles Dauray, Eric Buermann, Shannon Estenoz, Melissa Meeker, Jerry Montgomery, Patrick Rooney. Motion passed.

Workshop Agenda

Water Resources

- 34. Water Conditions Report** - Susan Sylvester, Department Director, Operations & Control, Operations & Maintenance (Ext. 6152)

Susan Sylvester, Department Director, Operations & Control, reported on the rainfall conditions of the 2009 dry season. Ms. Sylvester said we are at high risk for wild fires in the region.

- 35. Ecological Conditions Report** - Dean Powell, Director, Watershed Management Department, Water Resources (Ext. 6787)

Mr. Powell, Director, Watershed Management Department, reported on the ecological conditions of Kissimmee River, the invasive exotic vegetation and water quality of Lake Okeechobee, and the salinity levels of the St. Lucie and Caloosahatchee estuaries.

Mr. Merriam provided information on the public process for pulse releases into the estuaries and requested Board consensus to allow District staff discretionary releases to the estuaries. Mr Merriam will provide a follow-up report in March. The Board agreed.

Mr. Powell then reported on the Stormwater Treatment Area (STA) 5 rehabilitation project, water conditions of the conservation areas and the 2009 wading bird nesting season.

Mr. Powell reported on the weekly operational meetings and the discussions of apple snail reproduction.

Ms. Sylvester reported on the regulation schedule and the water rate recession in the conservation areas.

Mr. Collins provided comment on restoring the ecosystem and water rate recession.

Ms. Estenoz commented on the importance of water flowing south under Tamiami Trail.

Executive Office

- 36. South Florida Water Management District's 60th Anniversary, Historical Overview** - Carol Wehle, Executive Director (Ext. 2893) (Time Certain: 11:30)

Ms. Wehle reported on the ribbon-cutting ceremony for the SFWMD 60-year anniversary. George Horne, Deputy Executive Director, Operations and Maintenance, presented a historical overview of the South Florida Water Management District.

61. Formulation of Strategic Planning and Budgetary Guidance - Tom Olliff, Assistant Executive Director (ext. 2132)

Tom Olliff, Assistant Executive Director, presented an introduction of the formulation of the strategic planning, budget guidance and revenue overview.

Doug Bergstrom, Director, Budget and Management Division, presented background information on FY2009 adopted revenue budget, the major revenue sources and information on the uncertain economic forecast.

Jeyantha Obeysekera, Director, Modeling Department, presented information on the global sea level rise and water resources management areas of concern:

-Operations & Maintenance

(Flood protection in urban areas along the coast due to higher high tides and storm surges)

- Water Supply

(Salt water intrusion potentially impacting coastal wellfields)

- Everglades Restoration

(Inundation of Southern Everglades)

The Strategic Planning and Budgetary Guidance presentations will be continued at the March Governing Board Workshop due to time constraints.

Mr. Collins commented on budget restrictions, alternative water supply development and flexibility of the budget due to emergency situations.

Ms. Wehle commented on expenses for retrofit of coastal structures and capital improvements for the central and southern flood control systems.

64. Overview of Chapter 373, Florida Statutes - Public Procurement (Continued) - Sheryl G. Wood, General Counsel, Carlyn Kowalsky, Managing Attorney, and Cathy Linton, Sr. Supv Attorney, Office of Counsel (Ext. 6976, 6240 and 6322)

This agenda item was postponed.

Operations and Maintenance

63. Invasive & Exotic Species Management Program Update - Dan Thayer, Department Director, Vegetation & Land Management, Operations & Maintenance (ext. 6129)

This agenda item was postponed.

Discussion Agenda

Water Resources

- 37. 2009-217** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into agreements with an additional two Fiscal Year 2009 Alternative Water Supply Projects in an amount not to exceed \$1,250,000 as shown in Exhibit A, for which \$1,250,000 in Fiscal Year 2009 Dedicated Funds (State Appropriation); certify forward \$9,150 in Fiscal Year 2008 dedicated funds (State Appropriation), \$9,150 in Fiscal Year 2008 ad valorem funds, and \$1,196 in Fiscal Year 2007 ad valorem funds to be reallocated to Project LEC-85 (Boynton Beach); and authorizing staff to reallocate disencumbered funds from other authorized alternative water supply projects as appropriate to offset the \$810,000 reduction in Fiscal Year 2009 State Appropriation; providing an effective date. (Marjorie Craig, ext. 2987)

Mark Elsner, Director, Implementation Division, Water Supply Department, requested revisions to FY09 Alternative Water Supply Projects funding due to reduction of State funding.

Motion made by Melissa Meeker, seconded by Jerry Montgomery to Approve the following item(s): 37

Vote called. Voting yes: Melissa Meeker, Jerry Montgomery, Eric Buermann, Charles Dauray, Patrick Rooney. Not present: Michael Collins, Shannon Estenoz. Motion passed.

- 38.** Approve Environmental Resource Permit Modification Application 041018-11 for construction and operation of a surface water management system serving a 26.44 acre roadway project known as Green River Parkway South (Martin County) (Robert M. Brown, ext 6283)

No presentation provided.

Public Comment: Paul Bangs, Martin County, supports the project.

Public Comment: Keith Kopp, Havey Creek Greenway Group, commented on the adverse impacts with this project, the District's Mission Statement, and opposes this permit.

Public Comment: Marcy LaHart, representing Havey Creek Greenway Group, opposes this permit and requested the Board deny this permit.

Public Comment: Harold Tourjee, Martin County, supports this project.

Public Comment: Robert Weigt, R.L. Weigt, EVN Consultants, Inc. supports this project.

Public Comment: Paul Shidel, citizen, opposes this project. He reported on stormwater discharges in Pinecrest Lake.

Ms. Meeker requested staff meet with Mr. Shidell regarding Pinecrest Lake.

Public Comment: Kevin Henderson, Martin County, commented on Green River Parkway and supports this project.

Public Comment: Joe Capra, Martin County, supports this project and stated it has been endorsed by Martin County.

Public Comment: Don Donaldson, Martin County, supports this project.

Motion made by Melissa Meeker, seconded by Jerry Montgomery to Approve the following item(s): 38

Vote called. Voting yes: Melissa Meeker, Jerry Montgomery, Eric Buermann, Michael Collins, Charles Dauray, Patrick Rooney. Abstained: Shannon Estenoz. Motion passed.

- 39. 2009-218** A Resolution of the Governing Board of the South Florida Water Management District to authorize a cooperative agreement with Istokpoga Marsh Watershed Improvement District and Florida Department of Agriculture and Consumer Services for the Alternative Water Storage/Disposal and Stormwater Reuse project in an amount not to exceed \$3.8 million, subject to the release of funding by the Florida Department of Environmental Protection, for which dedicated funds (Save Our Everglades Trust Fund) are budgeted in managerial reserves and authorize a budget transfer from managerial reserves to the Environmental Resource Regulation Department with this agreement; providing an effective date. (Contract Number 4600001716) (Robert M. Brown, ext 6283)

No presentation provided.

Motion made by Michael Collins, seconded by Melissa Meeker to Approve the following item(s): 39

Vote called. Voting yes: Michael Collins, Melissa Meeker, Eric Buermann, Charles Dauray, Shannon Estenoz, Jerry Montgomery, Patrick Rooney. Motion passed.

Everglades Restoration

- 19. 2009-204** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to Contract OT050802 with New Hope Sugar Company and Contract 4600001039 with Okeelanta Corporation to revise the applicable termination language and extend the terms by two years from March 31, 2009 to March 31, 2011, and add an additional one acre tract to Contract OT050802; providing an effective date. (Bob Schaeffer, ext. 2985)

This item was pulled for discussion from the Consent Agenda by Ms. Estenoz.

Ruth Clements, Director, Land Acquisition and Management Department, presented information on this agenda item.

Motion made by Melissa Meeker, seconded by Michael Collins to Approve the following item(s): 19

Vote called. Voting yes: Melissa Meeker, Michael Collins, Eric Buermann, Charles Dauray, Shannon Estenoz, Jerry Montgomery, Patrick Rooney. Motion passed.

- 40. 2009-219** A Resolution of the Governing Board of the South Florida Water Management District approving a boundary change for the purpose of revising the boundary of the Southern Corkscrew Regional Ecosystem Watershed (CREW) Critical Restoration Project; providing an effective date. (Larry Gerry, ext. 3701)

Larry Gerry, Director, Everglades Restoration Planning, presented background information on the Southern Corkscrew Regional Ecosystem Watershed (CREW) Critical Restoration Project. Mr. Gerry reported on the purpose and challenges of the project and the proposed revised boundary of the project.

Public Comment: William Cobb, citizen, had concerns relating to his property near the project.

There was Board discussion with staff regarding Mr. Cobb's concerns.

Public Comment: Jennifer Hecker, Conservancy of Southwest Florida, requests the District not remove the original parcels.

Ms. Meeker commented on financial support from the Conservancy of Southwest Florida and other entities for the land purchases.

Mr. Dauray also supported financial commitment from other entities for land acquisitions.

Public Comment: Shane Snell, citizen, commented on the Phase 2 of the project and the crest elevation of the weir.

Public Comment: Jacquie Weisblum, Audubon, supports the need to complete the project. She requested deferring sections 32 and 33.

Ms. Estenoz commented on the effects to groundwater in the region.

Mr. Gerry provided additional information regarding the effects to groundwater.

Mr. Montgomery commented on the funding challenges facing the District for land acquisitions and projects.

There was further Board discussion on the economy, the cost of purchasing the parcels, condemnation, and the possibility of swapping the land with landowners.

Mr. Montgomery commented on the Board's obligation to make a decision in a timely manner.

Mr. Montgomery requested a monthly agenda item for these issues.

Mr. Olliff reported staff will meet with Federal partners and landowners to discuss these issues.

Motion made by Michael Collins, seconded by Jerry Montgomery to Approve the following item(s): 40

Vote called. Voting yes: Michael Collins, Jerry Montgomery, Eric Buermann, Charles Dauray, Shannon Estenoz, Melissa Meeker, Patrick Rooney. Motion passed.

Executive Office

- 62.** Continuation of Purchase and Sale Contract / Lease Agreement on Best Management Practices (BMPs) for Due Diligence - Kirk Burns, Sr. Practice Expert, Office of Counsel (ext. 6546)

Authorize an extension of the Due Diligence Inspection Period in the Purchase and Sale Contract for matters relating to BMP Plans, up to and including March 13, 2009.

Kirk Burns, Practice Expert, Office of Counsel, presented the motion as follows:

To authorize a second amendment to the Due Diligence Inspection Period in the Purchase and Sale Contract for matters relating to BMP Plans, up to and including March 13, 2009.

Ms. Meeker requested staff focus on compliance methodology. The Board members agreed.

Public Comment: Jacquie Weisblum, Audubon, commented on the improvement of BMPs and thanked staff for working with Audubon on these issues.

Motion made by Jerry Montgomery, seconded by Shannon Estenoz to Approve the following item(s): 62

Vote called. Voting yes: Jerry Montgomery, Shannon Estenoz, Eric Buermann, Charles Dauray, Melissa Meeker, Patrick Rooney. Not present: Michael Collins. Motion passed.

Government and Public Affairs

- 44. 2009-223** A Resolution of the Governing Board of the South Florida Water Management District to authorize an Amendment to Contract #4600001183 with Martin County for the Manatee Pocket Dredging Project; adding Task 4: Construction; extending the term by 12 months from May 4, 2010 to May 4, 2011; increasing funding in the amount of \$5,900,000, for which dedicated funds in the amount of \$3,600,000 (\$2,300,000 in State Appropriations and \$1,300,000 in Florida Inland Navigation District grants) are budgeted, and the remainder of \$2,300,000 in grant funds is subject to Governing Board approval of the FY2009-2010 Budget; providing an effective date. (Contract Number 4600001183-A01) (Kathryn LaMartina, ext. 3603)

No presentation was provided.

Motion made by Michael Collins, seconded by Jerry Montgomery to Approve the following item(s): 44

Vote called. Voting yes: Michael Collins, Jerry Montgomery, Eric Buermann, Charles Dauray, Shannon Estenoz, Patrick Rooney. Abstained: Melissa Meeker. Motion passed.

- 45. Public Comment**

There was no public comment.

Public Hearing

Water Resources

46. Open Public Hearing

Adopt amendments to Rules 40E-2.051, 40E-2.091, 40E-2.331, 40E-24.011, 40E-24.101, 40E-24.201, 40E-24.301, 40E-24.401, 40E-20.091, 40E-20.331, F.A.C., and the Basis of Review for Water Use Applications within the South Florida Water Management District, and new Rules 40E-2.061, and 40E-24.501, F.A.C., to: 1) implement District-wide mandatory year-round landscape irrigation conservation measures; 2) create a general permit by rule for outdoor residential consumptive use of water and to allow modification of such a permit that does not allow more cumulative days and time to conduct landscape irrigation than those provided under Chapter 40E-24, F.A.C.; and 3) amend the water conservation measures in the Basis of Review to be consistent with the landscape irrigation conservation measures set forth in Chapter 40E-24, F.A.C. (Terrie Bates, ext. 6952) **(Time certain: Immediately following noon-time Closed Door Session)**

Close Public Hearing

Chair Buermann opened the public hearing.

Terrie Bates, Assistant Deputy Executive Director, Water Resources, presented information on the proposed District-Wide year-round landscape irrigation rule. Ms. Bates also reported on entities requesting regulatory lower cost alternatives, public comments and the proposed revision to the rule.

Public Comment: Gerry Hartman, North Miami Beach, commented on the complex issues with the utility companies and alternative water supplies.

Public Comment: Randy Brown, City of Pompano Beach, commented on the utility companies supporting water conservation, the investment of the reuse systems, and projects for water storage.

Public Comment: Lisa Wilson Davis, City of Boca Raton, supports water conservation. She commented on reclaimed water, revenue loss, and the flexibility of other conservation efforts. She recommends a 3-day a week water restrictions.

Public Comment: Edward de la Parte, Southeast Florida Utility Council, requested an economic analysis of the conservation plan. He recommends a 3-day a week water restrictions.

Public Comment: Paul Mattausch, Collier County, supports water conservation and 3-day a week landscape irrigation restrictions.

Public Comment: Ronny Joel, City of Marco Island, requested 3-day a week landscape irrigation restrictions.

Public Comment: Joseph LoBello, Town of Juno Beach, opposes the 2-day a week water restriction rule.

Public Comment: Nat Nason, Seacoast Utility Authority, opposes the 2-day a week water restriction rule.

Public Comment: Fred Scholz, citizen, opposes water restrictions.

Public Comment: John Fumero, Boca Raton, Ft. Lauderdale, Delray, Highland County, commented on water conservation initiatives and implementing the rule.

Public Comment: Julie Leonard, City of Ft. Lauderdale, supports water conservation but requested 3-day a week water restrictions.

Public Comment: Bruce Adams, Florida Nursery Growers and Landscape Association (FNGLA), commented on the partnerships between the District and the utility companies for water conservation programs.

Public Comment: Jacquie Weisblum, Audubon, supports the 2-day week landscape irrigation rule.

Public Comment: Kristin Yerkes, Palm Beach County, has concerns regarding 2-day a week for landscape irrigation.

Public Comment: Steve Homrich, Homrich Nursery, commented from the landscaping industry and said the 2-day a week water restrictions are not working.

Public Comment: Debra Joneck, FNGLA, commented on a scientific study done for plant establishment.

Public Comment: Bill Schall, FNGLA, commented on landscape irrigation to maintain turf growth and the establishment of plants.

There was Board discussion regarding 2-day vs. 3-day a week mandatory year-round landscape irrigation.

Ms. Meeker provided comment on the importance of partnerships with the utilities and supports 3-day a week water restrictions.

Mr. Collins provided comment on 3-day a week with less hours per day.

Mr. Merriam said he would re-evaluate the options of 2-day vs. 3-day a week water restrictions and bring it back to the Board in March.

Chair Buermann announced the public hearing be continued.

Motion made by Shannon Estenoz, seconded by Michael Collins to continue the Public Hearing. Vote called. Voting yes: Shannon Estenoz, Michael Collins, Eric Buermann, Charles Dauray, Melissa Meeker, Jerry Montgomery, Patrick Rooney. Motion passed.

47. Open Public Hearing

Adopt amendments to Rules 40E-0.105, and 40E-0.109, F.A.C., to provide electronic mail as an option for receipt of notices of intent and as a means of providing written notices of agency decisions, and Rule 40E-4.021(13), to expand the definition of electronic filing to include applications for Works of the District permits (Maria Clement, ext 2308)

Close Public Hearing

Chair Buermann opened the Public Hearing.

Robert M. Brown, Director, Environmental Resource Regulation Department, presented information on the e-permitting online system.

Maria Clemente, Division Director, Environmental Resource Regulation Department, presented information on the amended rules to expand electronic filing to include works of the District permits.

Chair Buermann closed the Public Hearing.

Motion made by Melissa Meeker, seconded by Jerry Montgomery to Approve the following item(s): 47

Vote called. Voting yes: Melissa Meeker, Jerry Montgomery, Eric Buermann, Charles Dauray, Shannon Estenoz, Patrick Rooney. Not present: Michael Collins. Motion passed.

Everglades Restoration

48. Open Public Hearing

Adopt new rule chapter 40E-10, F.A.C. entitled Water Reservations, specifically Rules 40E-10.011, 40E-10.021, 40E-10.031, 40E-10.041, and adopt amendments to Rules 40E-2.011, 40E-2.091, 40E-2.301, 40E-2.331, 40E-20.091, 40E-20.301, 40E-20.331, F.A.C., and the Basis of Review for Water Use Permit Applications within the South Florida Water Management District, to establish Water Reservations for Picayune Strand and Fakahatchee Estuary. (Chip Merriam, Ext. 6597)

Close Public Hearing

Chair Buermann opened the Public Hearing.

Chip Merriam, Deputy Executive Director, Water Resources, presented information on the rule establishing water reservations for Picayune Strand and Fakahatchee Estuary.

Public Comment: Edward de la Parte, Collier County, commented on a pending permit application and the possibility of filing a petition.

Sheryl Wood, General Counsel, provided information on the procedures if a petition is filed.

Public Comment: Kahlil Kettering, National Parks Conservation Association, supports the water reservation rule.

Public Comment: Joan Lawrence, Department of Interior, supports the adoption of the water reservation rule.

Public Comment: Kim Taplin, USACOE, supports the adoption of the water reservation rule for Picayune Strand.

Public Comment: Jacquie Weisblum, Audubon, supports the adoption of the water reservation rule.

Chair Buermann closed the Public Hearing.

Motion made by Shannon Estenoz, seconded by Jerry Montgomery to Approve the following item(s): 48

Vote called. Voting yes: Shannon Estenoz, Jerry Montgomery, Eric Buermann, Charles Dauray, Melissa Meeker, Patrick Rooney. Not present: Michael Collins. Motion passed.

Executive Office

60. 2009-224 Open Public Hearing

A Resolution of the Governing Board of the South Florida Water Management District authorizing the substitution of facilities pursuant to the Master Lease Purchase Agreement dated as of November 1, 2006; authorizing the execution and delivery of a first supplement to Series 2006 Ground Lease and a first amendment to Schedule 2006 in connection therewith; authorizing the ground lease of certain lands; and providing for an effective date. (Paul Dumars, ext. 6212)

Close Public Hearing

Chair Buermann opened the Public Hearing.

Frank Bartolone, Sr. Specialist Attorney, presented information on this agenda item.

Chair Buermann closed the Public Hearing.

Motion made by Charles Dauray, seconded by Shannon Estenoz to Approve the following item(s): 60

Vote called. Voting yes: Charles Dauray, Shannon Estenoz, Eric Buermann, Melissa Meeker, Jerry Montgomery, Patrick Rooney. Not present: Michael Collins. Motion passed.

Staff Reports

49. Legislative Update - Ernie Barnett

Ernie Barnett, Director, Legislative Affairs, provided a legislative update to the Board.

50. General Counsel Report - Sheryl Wood

Ms. Wood provided an oral report on the Office of Counsel's monthly activities.

51. Executive Director's Report - Carol Wehle

Ms. Wehle reported on the upcoming C-139 tour prior to Governing Board Workshop in March.

Ms. Wehle reported on the dedication and ribbon-cutting ceremony for the Lake Region Water Treatment Plant which will be held on March 6.

Ms. Wehle also reported on a letter received by US Sugar. A copy of the letter and Ms. Wehle's response was provided to the Board.

Ms. Wehle also reported on travel restrictions for State employees.

52. Board Comment

There was no Board comment.

Closed Door Agenda

Executive Office

- 53.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in South Florida Water Management District v. State of Florida, Fifteenth Judicial Circuit, Palm Beach County, Florida, Case No. 50-2008-CA-031975XXXXMB. (Sheryl. G. Wood, , Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in South Florida Water Management District v. State of Florida, Fifteenth Judicial Circuit, Palm Beach County, Florida, Case No. 50-2008-CA-031975XXXXMB. (Sheryl. G. Wood, , Ext. 6976)

This item was deleted off the agenda.

- 54.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Friends of the Everglades, Inc. and Fishermen Against Destruction of the Environment, Inc. v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 02-80309-CV-Altonaga/Turnoff; Miccosukee Tribe of Indians of Florida v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 98-6056-CIV-Lenard/Klein; and Friends of the Everglades v. South Florida Water Management District, United States District Court, Southern District of Florida, Case No. 98-6057-CIV-Lenard/Klein. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Friends of the Everglades, Inc. and Fishermen Against Destruction of the Environment, Inc. v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 02-80309-CV-Altonaga/Turnoff; Miccosukee Tribe of Indians of Florida v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 98-6056-CIV-Lenard/Klein; and Friends of the Everglades v. South Florida Water Management District, United States District Court, Southern District of Florida, Case No. 98-6057-CIV-Lenard/Klein. (Sheryl G. Wood, Ext. 6976)

Chair Buermann adjourned to Closed-Door session at 12:15 pm. The meeting would reconvene in approximately 60 minutes.

Chair Buermann reconvened the meeting at 1:45 pm.

Sheryl Wood, General Counsel, reported no recommendations be taken at this time.

- 55.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Natural Resources Defense Council, Inc., et al. v. Van Antwerp, et al., United States District Court, Southern District of Florida, Case No. 07-80444-CIV-Middlebrooks. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Natural Resources Defense Council, Inc., et al. v. Van Antwerp, et al., United States District Court, Southern District of Florida, Case No. 07-80444-CIV-Middlebrooks. (Sheryl G. Wood, Ext. 6976)

This item was deleted off the agenda.

56. Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in South Florida Water Management District v. Real Estate Investment Group LLC; Terranova Investments of Miami, Inc., Eleventh Judicial Circuit, Miami-Dade County, Florida, Case No. 09-00549 CA 23. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in South Florida Water Management District v. Real Estate Investment Group LLC; Terranova Investments of Miami, Inc., Eleventh Judicial Circuit, Miami-Dade County, Florida, Case No. 09-00549 CA 23.(Sheryl G. Wood, Ext. 6976)

Sheryl Wood, General Counsel, reported no action be taken at this time.

57. Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in New Hope Sugar Company and Okeelanta Corporation v. South Florida Water Management District, Petition for Administrative Hearing filed January 6, 2009. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in New Hope Sugar Company and Okeelanta Corporation v. South Florida Water Management District, Petition for Administrative Hearing filed January 6, 2009. (Sheryl G. Wood, Ext. 6976)

This item was deleted off the agenda.

58. Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Miccosukee Tribe of Indians of Florida v. South Florida Water Management District, Petition for Administrative Hearing filed January 13, 2009. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Miccosukee Tribe of Indians of Florida v. South Florida Water Management District, Petition for Administrative Hearing filed January 13, 2009. (Sheryl G. Wood, Ext. 6976)

This item was deleted off the agenda.

Adjournment

59. Adjourn

Chair Buermann adjourned the meeting at 4:55 pm.

Eric Buermann
Governing Board Chairman
South Florida Water Management District Governing Board

Recorded By:

Cathy Widness
Administrative Assistant Senior
Governing Board and Executive Services
SFWMD

Motion made by Shannon Estenoz, seconded by Jerry Montgomery to Approve the following item(s): 59

Vote called. Voting yes: Shannon Estenoz, Jerry Montgomery, Eric Buermann, Charles Dauray, Patrick Rooney. Not present: Michael Collins, Melissa Meeker.
Motion passed.